



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 9, 2018

BY ECF

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: ***United States v. Hector Cruz***
17 Cr. 300 (GWG)

Dear Judge Gorenstein:

The defendant is scheduled to be sentenced in this matter on February 15, 2018 at 4:00 p.m. The Government respectfully submits this letter in connection with sentencing and in response to the defendant's submission, dated February 5, 2018. For the reasons explained below, the Government respectfully submits that a Guidelines sentence would be appropriate in this case.

I. Offense Conduct

The defendant was arrested in this case on July 26, 2017, for violating the Animal Welfare Act, 7 U.S.C. § 2156(b). From at least December 2012 until the time of his arrest on January 31, 2017, the defendant maintained a rooster farm at a location in the Bronx, where he bred, raised, and trained roosters for cockfighting. The defendant sold and shipped his roosters to individuals across the country, knowing that the birds were intended for cockfights. The defendant communicated with his customers through social media—boasting that his birds were “battle worthy birds who deliver in the pit”—and received payments of as much as \$600 for fighting birds.

On June 8, 2017, the defendant pleaded guilty, pursuant to a plea agreement, to a one count information charging him with attending an animal fighting venture, in violation of 7 U.S.C. § 2156(a)(2)(A).

II. The Defendant's Plea and Applicable Guidelines Range

The plea agreement calculated the applicable Guidelines offense level as 4, and the defendant's Criminal History Category as I. These calculations resulted in a Guidelines range of 0 to 6 months' imprisonment.

III. Discussion

The Government submits that a Guidelines sentence would be sufficient, but not greater than necessary, to satisfy the need to reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, and afford adequate deterrence to criminal conduct.

As to the nature and circumstances of the offense, the defendant pleaded guilty to attending an animal fighting venture. The charge arises from an investigation that uncovered the defendant's rooster farm in the Bronx, where he raised birds for cockfighting. There can be no question that cockfighting is animal cruelty. Fighting birds are bred to be aggressive and trained to fight other roosters. When the birds are old enough to fight, handlers will cut off their combs, ears, and wattles to streamline the bird for fighting. Finally, the birds are affixed with fighting weapons—sharpened knives called “gaffs”—and placed in a pit to fight to the death. This is a cruel and brutal blood sport, and the prohibitions against animal fighting set forth in Section 2156 reflect Congress' view that this is a crime. A Guidelines sentence is necessary to reflect the seriousness of the offense.

In addition, a Guidelines sentence is necessary to promote the respect for the law. Despite pleading guilty to this offense, the defendant has repeatedly attempted to minimize and obscure his criminal conduct. In his *pro se* filings and in his letter to the Court, the defendant has asserted that he is innocent and failed to acknowledge his guilt. Indeed, his sentencing letter to the Court makes no mention of the offense. Moreover, the defendant's conduct following his arrest in this case reflects a disrespect for the law that is troubling. The defendant has been repeatedly late to Court and has disregarded the Court's instructions not to submit inappropriate filings. This behavior, when coupled with the defendant's numerous submissions claiming he has been wrongfully charged, makes clear that a Guidelines sentence, to include a term of imprisonment, is necessary to promote respect for the law.

Finally, the Government respectfully submits that a term of supervision following the defendant's sentence is necessary to ensure that the defendant does not engage in similar conduct. In particular, the Government respectfully requests that the Court impose a special condition prohibiting the defendant from buying, selling, or possessing live chickens, roosters, or hens during the period of his supervision.

For the reasons set forth above, the Government respectfully submits that a Guidelines sentence is appropriate in this case.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

by: /s/
Michael C. McGinnis
Alison G. Moe
Assistant United States Attorneys
(212) 637-2305 / 2225

CC: All Counsel of Record (by ECF)